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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**KLAMATH RIVERKEEPER**, a nonprofit  
public benefit corporation;  
**HOWARD McCONNELL**;  
**LEAF G. HILLMAN**;  
**ROBERT ATTEBERY**; and  
**BLYTHER REIS**;

Plaintiffs,

vs.

**PACIFICORP, INC.**, an Oregon  
Corporation;

Defendant.

Case No. CV 07-06199 WHA

ADMINISTRATIVE MOTION FOR  
CLARIFICATION OF ORDER

Civil L.R. 7-11

Judge: Honorable William H. Alsup  
Department: Courtroom 9, 19th Floor

1 Plaintiffs hereby move this Court pursuant to Civil L.R. 7-11 for clarification of the Order  
2 Provisionally Consolidating Related Cases and Denying Defendant's Motion to Dismiss Duplicative  
3 Suit ("Order"). Defendants were asked to stipulate to this request for clarification, but declined to do so.  
4 Declaration of Daniel Cooper ("Cooper Dec."), ¶ 7.

5 **Request for Clarification**

6 On 22 February 2008, this Court provisionally consolidated the two related actions, C 07-02382  
7 WHA and C 07-06199 WHA, and denied Defendant's motion to dismiss. The Court conditioned the  
8 consolidation and denial of Defendant's motion on a requirement that by 29 February 2008, "all  
9 plaintiffs' counsel sign and file a written undertaking to be jointly and severally responsible for all such  
10 incremental costs and fees attributable to the delay" of two and one half months between the date set in  
11 the case management order for amending the complaint (September 27, 2007), and the date the second  
12 action was filed (December 6, 2007). Order, p. 8.

13 While the Order states that the expenses would be only for the incremental increase in costs and  
14 fees resulting from two and one half months' delay, Plaintiffs and Defendant have very different  
15 understandings of what those costs and fees might include. Cooper Dec., ¶¶ 5-6. For example, the  
16 parties disagree as to whether fees for Defendant's Motion to Dismiss that resulted in the Order would  
17 be considered as part of this incremental increase. *Id.* Similarly, given that discovery is in its early  
18 stages, Plaintiffs contemplate very limited incremental cost increases, if any, relating to discovery, while  
19 Defendant takes a more expansive view. *Id.* at ¶ 6. While Plaintiffs acknowledge that the Order states  
20 that an accounting of those incremental fees and costs shall be conducted at the end of the action,  
21 Plaintiffs request clarification of the methodology that would be applied to that accounting.

22 Plaintiffs respectfully request that the Court clarify its Order to define what the term  
23 "incremental increase" in fees and costs encompasses, so that the undertaking to be executed can be  
24 accurately drafted, and so that Plaintiffs' counsel can clearly understand the scope of the undertaking.

25 Respectfully submitted,

26 Dated: 27 February 2008

27 /s/  
Daniel Cooper  
Attorney for Plaintiffs